

# MEMORANDUM

Agenda Item No. 8(F)(4)

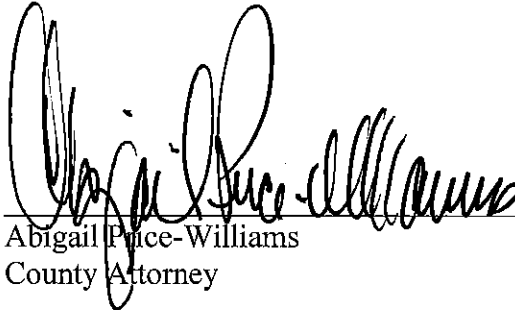
**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** June 7, 2016

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution approving terms of  
and authorizing execution by the  
County Mayor of a Lease  
Agreement between Miami-Dade  
County and Old Cutler  
Presbyterian Church, Inc., a  
Florida not-for-profit  
Corporation

The accompanying resolution was prepared by the Internal Services Department and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levine Cava.



Abigail Price-Williams  
County Attorney

APW/cp

# Memorandum



**Date:** June 7, 2016

**To:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in black ink, appearing to be "Carlos A. Gimenez", written over a horizontal line.

**Subject:** Lease Agreement with Old Cutler Presbyterian Church, Inc. for a Portion of the Property Located at 7055 SW 144 Street, Palmetto Bay, Florida to be used by Miami-Dade Fire Rescue - Lease No. 33-5023-000-0250-L01

---

## **Recommendation**

It is recommended that the Board of County Commissioners (Board) authorize execution of the attached Lease Agreement (Lease) between Miami-Dade County (County) and Old Cutler Presbyterian Church, Inc. (Landlord), a Florida not-for-profit corporation, for a portion of the property located at 7055 SW 144 Street, Palmetto Bay, Florida, to be used by Miami-Dade Fire Rescue Department as temporary fire rescue station. More specifically, the resolution does the following:

- Authorizes the lease of approximately 5,000 square feet of land adjacent to Old Cutler Road, including 9 parking spaces, and the driveway that leads to Old Cutler Road, as indicated on Exhibit A of the Lease; and
- Authorizes an initial lease term of two (2) years, plus the lesser of one-year or the expiration of six (6) months after issuance of a Certificate of Occupancy or equivalent permit for the County to occupy the permanent fire rescue station being constructed on an adjacent vacant parcel of land located at 14251 Old Cutler Road (Folio No.: 33-5023-001-0080), which was acquired by the County from the Landlord in 2015.

## **Scope**

The property is located in County Commission District 8, which is represented by Commissioner Daniella Levine Cava.

## **Fiscal Impact/Funding Source**

The fiscal impact to the Fire Rescue Department for the initial two-year term of the Lease is estimated to be \$273,760. This amount is comprised of \$84,000 in base rent (which is equal to \$3,500 per month), \$3,360 in lease management fees, \$24,000 in utilities and maintenance, \$18,000 for insurance, \$70,000 for site work, and \$74,400 for rental of a modular trailer and installation, which will serve as the temporary fire rescue station. The lease management fee, which amounts to four (4) percent of the base rent, will be paid by the Fire Rescue Department to the Internal Services Department for the administration of the Lease. If the County elects to exercise the full optional renewal term, the total fiscal impact to the Fire Rescue Department is estimated to be \$369,640 (\$126,000 in rent, plus \$5,040 in lease management fees over 36 months, \$36,000 in utilities and maintenance, \$27,000 for insurance, \$70,000 for site improvements, and \$105,600 for modular trailer delivery and installation and rental for 36 months). All costs associated with this Lease shall be funded through the Fire Rescue Department's Fire District budget.

## **Track Record/Monitor**

The County has no record of negative performance issues with the Landlord. The Lease was prepared for the Fire Rescue Department by the Internal Services Department. Daniel O. Borges in the Internal Services Department's Real Estate Development Division is the Lease Monitor.

**Delegation of Authority**

This item authorizes the County Mayor or the County Mayor's designee to execute the attached Lease and exercise all other rights conferred herein.

**Background**

The Fire Rescue Department identified a suitable parcel of land on the grounds of Old Cutler Presbyterian Church located at 7055 SW 144 Street in the Village of Palmetto Bay to establish a temporary fire rescue station to provide much needed fire and emergency rescue services to the residents of Palmetto Bay, Pinecrest, and unincorporated Miami-Dade County.

On February 3, 2015, the Board adopted Resolution No. R-162-15 which authorized the execution of a Contract for Sale and Purchase between the County and Old Cutler Presbyterian Church, Inc. for an approximate one (1) acre parcel of vacant land located at 14251 Old Cutler Road (Folio No.: 33-5023-001-0080). The Fire Rescue Department intends to utilize the parcel of land for the construction of the Palmetto Bay North Fire Rescue Station 62.

Due to the timeline to construct the permanent fire rescue station, the Fire Rescue Department negotiated with the Landlord to lease an approximately 5,000 square foot parcel of land, located along the northwest portion of the Landlord's property, for use as a temporary fire station. Once leased by the County, the parcel will be improved with a modular trailer, canopy, and storage shed. As a result of existing improvements to the property, the Fire Rescue Department will benefit from nine (9) parking spaces as well as a driveway for ingress/egress to and from Old Cutler Road. The temporary fire station will be equipped with an Advanced Life Support (ALS) suppression fire truck and staffed with a total of four (4) firefighters/paramedics, 24 hours a day, seven (7) days a week.

On May 18, 2015, the Palmetto Bay Village Council passed and adopted a resolution authorizing the construction of the temporary fire rescue station and associated site plan. The Fire Rescue Department will be responsible for seeking the required building permits from the Village of Palmetto Bay, constructing the temporary facility and implementing operations, including providing the necessary staff and equipment.

Following construction of the permanent fire station, the equipment and staff will be relocated from the temporary fire rescue station to the new station. Additionally, upon terminating the operation of the temporary fire rescue station and vacating the premises, the Fire Rescue Department will return the leased parcel to its original condition or in a manner mutually agreed upon by both parties.

The Landlord, despite having sold the County the adjacent land in 2015, was unwilling to agree to many of the standard lease terms which protect the County and imposed terms that the County does not customarily agree to in lease matters. The importance of having fire rescue services in this region warranted agreement to changes to standard lease clauses related to liability, insurance and indemnity until the new permanent station has been constructed.

Additional lease details are as follows:

COMPANY PRINCIPALS:

Richard Cook, Director

LEASE TERM:

Two (2) years, plus the lesser of one (1) year or the expiration of six (6) months after issuance of a Certificate of Occupancy, or equivalent permit, to occupy the permanent Fire Rescue Station being constructed on an adjacent parcel of land located at 14251 Old Cutler Road.

EFFECTIVE DATES:

Commencing on the first day of the month following 10 days after the date of its adoption by the Board, unless vetoed by the County Mayor, and if vetoed, upon an override by the Board. The date on which the Lease becomes effective as provided therein is called the Commencement Date and expiring two (2) years thereafter (Expiration Date).

RENTAL RATE:

The rental rate to the County for the initial two-year lease term shall be \$3,500 monthly.

LEASE CONDITIONS:

The County shall be responsible for all costs associated with the County's use of the property, throughout the term of the Lease, including, but not limited to all charges for water, sewer, gas, electricity (or other illumination), telephone and all other utilities and services used or consumed on the property, and for all licenses and permits for the same. The Fire Rescue Department shall either arrange for separate billing with utility providers for usage or shall reimburse Landlord for utility charges incurred in connection with such usage within 10 business days of presentation of an invoice by the Landlord.

CANCELLATION PROVISION:

The County can cancel the Lease after one-year, upon 30 days notice to the Landlord and shall return the property to the Landlord as it was at the beginning of the Lease, unless the Landlord and Tenant agree otherwise.

OTHER PROPERTIES  
EVALUATED:

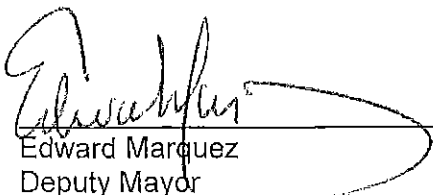
Pursuant to Resolution No. R-333-15, the Fire Rescue Department determined the comparable rental values in the area of the subject property. Those findings are provided below:

14200 Old Cutler Road, Palmetto Bay, Florida - \$7,000 a month (approximately 5,000 square feet)

13650 Old Cutler Road, Palmetto Bay, Florida - \$6,500 a month (approximately 5,000 square feet)

7350 SW 162 Street, Palmetto Bay, Florida - \$8,000 a month (approximately 5,000 square feet)

Attachment

  
Edward Marquez  
Deputy Mayor



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** June 7, 2016

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 8(F)(4)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☒ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(F)(4)  
6-7-16

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING TERMS OF AND AUTHORIZING EXECUTION BY THE COUNTY MAYOR, OR THE COUNTY MAYOR'S DESIGNEE, OF A LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND OLD CUTLER PRESBYTERIAN CHURCH, INC., A FLORIDA NOT-FOR-PROFIT CORPORATION, FOR A PORTION OF THE PREMISES LOCATED AT 7055 S.W. 144 STREET, PALMETTO BAY, FLORIDA, TO BE UTILIZED BY THE MIAMI-DADE FIRE RESCUE, TO PROVIDE A TEMPORARY FIRE RESCUE STATION, WITH A TOTAL FISCAL IMPACT TO THE FIRE RESCUE DEPARTMENT ESTIMATED TO BE \$369,640.00 FOR THE TWO YEAR TERM OF THE LEASE AND OPTION PERIOD; AND AUTHORIZING THE COUNTY MAYOR, OR THE COUNTY MAYOR'S DESIGNEE, TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board hereby approves the Lease between Miami-Dade County and Old Cutler Presbyterian Church, Inc., for a portion of property located at 7055 S.W. 144 Street, Palmetto Bay, Florida, consisting of approximately 5,000 square feet, to be utilized by the Miami-Dade Fire Rescue to create a temporary Fire Rescue Station, while a permanent Fire Rescue Station is being constructed, with a total fiscal impact to the Fire Rescue Department estimated to be \$369,640.00, for the two (2) year term of the Lease and option period, in substantially the form attached hereto and made a part hereof; and authorizes the County Mayor, or the County Mayor's designee, to execute same for and on behalf of Miami-Dade County; to exercise any and all other rights conferred therein.

The foregoing resolution was offered by Commissioner  
who moved its adoption. The motion was seconded by Commissioner  
and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 7<sup>th</sup> day of June, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

JRA

Juliette R. Antoine

## LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease"), is being entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Commencement Date") between Old Cutler Presbyterian Church, Inc., a Florida non-profit corporation ("Landlord"), and Miami-Dade County, a political subdivision of the State of Florida ("Tenant"), by which Landlord does this day lease unto Tenant, and Tenant does hereby lease from Landlord, a portion of land consisting of approximately 5,000 square feet, located at 7055 S.W. 144 Street, Palmetto Bay, Florida (Folio No.: 33-5023-000-0250), as shown on the attached Exhibit A (the "Premises"), for the initial term of two (2) years.

### PART I BASIC LEASE PROVISIONS

The following sets forth basic data hereinafter referred to in this Lease, and where appropriate, constitute definitions of the terms hereinafter listed:

<b>A. TENANT:</b>	Miami-Dade County, a political subdivision of the State of Florida
<b>B. TENANT'S ADDRESS</b>	111 N.W. 1 <sup>st</sup> Street, Suite 2460, Miami, Florida 33128
<b>C. LANDLORD:</b>	Old Cutler Presbyterian Church, Inc., a Florida non-profit corporation
<b>D. PRESENT NOTICE AND RENT PAYMENT MAILING ADDRESS OF LANDLORD:</b>	Attn: Church Administrator Old Cutler Presbyterian Church 14401 Old Cutler Road Palmetto Bay, Florida 33158-1722  All payments due hereunder, including, but not limited to, Rent, should be made payable to the Landlord entity identified here in Section D.
<b>E. PREMISES – ADDRESS AND DESCRIPTION:</b>	7055 S.W. 144 Street, Palmetto Bay, Florida Folio Number: 33-5023-000-0250  That certain portion of the Old Cutler Presbyterian Church campus at the above address depicted on the sketch attached hereto and incorporated herein as Exhibit A, comprising approximately 5,000 square feet of land adjacent to Old Cutler Road, the 9 parking spaces indicated on Exhibit A, and the driveway to Old Cutler Road indicated on Exhibit A.
<b>F. TERM:</b>	Two (2) years commencing on the first day of the month following ten (10) days after the date of its adoption by the Board of County Commissioners, unless vetoed by the County Mayor, and if vetoed, upon an override by the Miami-Dade County Board of Commissioners. The date on which this Lease becomes effective as provided herein is called the "Commencement Date", and expiring two (2) years thereafter (the "Expiration Date").
<b>G. OPTIONS TO RENEW:</b>	After the expiration of the term of this Lease, the Tenant shall have the option to renew this Lease for the lesser of one year or the expiration of 6 months after issuance of a Certificate of Occupancy or equivalent permit to occupy the permanent fire station being constructed on adjacent land acquired by Miami-Dade County from Landlord in 2015
<b>H. ANNUAL RENT:</b>	\$42,000 annually.
<b>I. MONTHLY RENT:</b>	\$3,500 monthly, and payable in advance.
<b>J. RENT COMMENCEMENT:</b>	The start of the Rent shall begin within 10 business days after the Commencement Date, and then be paid monthly by the Tenant, on the first day of each month during the Term of this Lease, all pursuant to Section 2 below.
<b>L. FLORIDA SALES TAX</b>	N/A
<b>M. PERMITTED USE:</b>	Temporary Fire Rescue Station, 24 hours a day, seven (7) days a week within the Premises
<b>N. SECURITY DEPOSIT:</b>	None
<b>O. RENT INCREASES:</b>	None

This Lease consists of the foregoing introductory paragraphs, constituting the Basic Lease Provisions (consisting of paragraphs A through O), along with any and all exhibits, all of which are incorporated herein by this reference. In the event of any conflict between the information contained in the Basic Lease Provisions, and the language in the Standard Lease Provisions, which follow, the Standard Lease Provisions shall control.



## STANDARD LEASE PROVISIONS

### **PART II**

#### **Terms and Conditions**

**SECTION 1. DESCRIPTION OF PREMISES:** The Landlord hereby leases to Tenant, and the Tenant hereby rents from the Landlord the following:

That certain portion of the Old Cutler Presbyterian Church campus 7055 S.W. 144 Street, Palmetto Bay Florida, depicted on the sketch attached hereto and incorporated herein as Exhibit A, comprising approximately 5,000 square feet of land adjacent to Old Cutler Road, the 9 parking spaces indicated on Exhibit A (for Tenant's exclusive use), and the ingress/egress driveway to Old Cutler Road indicated on Exhibit A.

Landlord and Tenant agree that the foregoing square footage is only an approximation of size, as the Premises has not been duly measured by either the Landlord or the Tenant. Further, the Tenant is fully aware of the size of the Premises and has determined that it is sufficiently suited for its intended purposes.

Notwithstanding anything to the contrary contained herein, the Premises has been inspected by the Tenant who accepts the Premises in its "AS IS" and "WHERE IS" condition, with any and all faults, and who understands and agrees that the Landlord does not offer any implied or expressed warranties as to the condition of the Premises and/or whether it is fit for any particular purpose.

In addition to the Premises, the Landlord hereby grants to the Tenant a limited right of entry onto other property or land owned by the Landlord, solely for the purpose of installing the following utility connections upon the commencement of this Lease and removing same at the termination of this Lease (at Tenant's sole expense): 1.) connection to existing water lines to supply potable water to the Premises and any structure or improvement placed on the Premises by the Tenant; 2.) connection to the existing back flow preventer for fire sprinklers that will serve the Premises and any structure or improvement placed on the Premises by the Tenant; and 3.) connection to the existing septic tank on the Landlord's property.

Ingress and egress to and from the Premises shall be via the driveway identified on Exhibit A as part of the Premises. No right of entry is created by this Lease as to any other driveways, avenues, or private roads on the Old Cutler Presbyterian Church campus (adjacent lands owned by Landlord).

**SECTION 2. RENT:** Tenant shall lease the Premises at and for the agreed upon amount of Forty-two Thousand (\$42,000.00) Dollars annually, payable in twelve (12) equal monthly installments of Three Thousand Five Hundred (\$3,500.00) Dollars, in advance, beginning on the Commencement Date, or as soon thereafter as practical.

After the initial Rent payment, the Tenant hereby agrees that it shall remit the Rent to Landlord on or before the first day of each month, throughout the term hereof, and during any option to renew period, without demand at the Rent Payment Address listed in the Basic Lease Provisions as outlined on page one (1), or at such other place and to such other person, as Landlord may from time to time designate in writing. Notwithstanding the foregoing, October's Rent payment may be delayed each year, but not more than by sixty (60) calendar days, and the Landlord hereby acknowledges this fact, and agrees hereby not to impose any type of penalty against the Tenant.

It is the intention of Tenant and Landlord that the obligations of Tenant shall be separate and independent covenants and agreements, and that Rent and all other sums payable by Tenant shall continue to be payable in all events, unless otherwise expressly provided herein, and that the obligations of Tenant shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated pursuant to the express provisions of this Lease.

**SECTION 3. TERM:** The term of this Lease shall commence on the Commencement Date, and Landlord and Tenant agree that this Lease is scheduled to terminate two (2) years thereafter (hereinafter "Expiration Date").

**SECTION 4. OPTION TO RENEW:** Provided this Lease is not otherwise in default and subject to the provisions hereinafter set forth, the Tenant has the option to extend the Term of this Lease for the lesser of one year or the expiration of 6 months after issuance of a Certificate of Occupancy or equivalent permit to occupy the permanent fire station being constructed on adjacent land acquired by Miami-Dade County from Landlord in 2015 on the same terms, conditions, and provisions as contained in this Lease, by giving the Landlord at least ninety (90) days written notice prior to the expiration of the Term.

**SECTION 5. HOLDOVER:** If Tenant remains in the Premises for any time period beyond the expiration of this Lease, such holding over shall be without right and shall not be deemed to create a tenancy of month-to-month, but Tenant shall be a tenant at sufferance only and Landlord shall be entitled to collect, in addition to any other remedies or amounts due under the terms of this Lease, the rent for each month, as charged for the month preceding the expiration of this Lease, as compensation for such holdover, in addition to any cost, liability, or loss to Landlord occasioned by Tenant's holdover. During any holdover period all Tenant obligations under this Lease shall be enforceable.

**SECTION 6. PERMITTED USE:** As briefly described in the Basic Lease Provisions, the Tenant shall use the Premises for a temporary fire rescue station to be operated by the Miami-Dade Fire Rescue department, by installing a trailer, connecting to existing public water lines and/or connecting to the existing septic system on the Landlord's property, as well as making other utility connections, installing a canopied cover area, installing telephone lines (if necessary), and installing a storage shed. The Tenant shall have the exclusive use of the nine (9) existing parking spaces identified on Exhibit A for its sole use. It is hereby understood and agreed that the use of the Premises is limited to the Use as described in this Lease, and for no other purpose(s) whatsoever. In the event there is a violation of the Use clause in this Lease, it shall be an event of default, and the Landlord shall have the right to exercise or pursue any and all remedies under this Lease or any other remedy at law or in equity.

**SECTION 7. ASSIGNMENT-SUBLEASING:** Tenant shall not mortgage, pledge, encumber, assign this Lease, or sublet (which term, without limitation, shall include the granting of concessions, licenses, and the like) the Premises, or any part thereof, without Landlord's prior written consent, which may be withheld in Landlord's sole and absolute discretion. In the event Landlord provides its written consent for an assignment or sublease, Landlord shall receive one hundred (100%) percent of any excess rent which is derived from the proposed transaction (including any fee, payment, etc. that Tenant receives in connection with any assignment and/or

sublet). In any case whereby Landlord shall consent to such proposed subletting, Tenant shall remain fully liable for the obligations of Tenant hereunder, including, without limitation, the obligation to pay the entire amount of the Rent, and other amounts provided herein. No assignment or subletting shall be valid or effective unless and until the assignee or subtenant, respectively, shall covenant in writing with Landlord, to the reasonable satisfaction of Landlord, to be bound directly to Landlord for the performance of all Tenant covenants contained herein. As part of Landlord's approval process for any assignment or sublet, to a non-governmental entity, the Landlord may require one or more of the following: (A) a security deposit from the assignee/sublessee in the amount equaled to one (1) month of Rent; and/or (B) financial and other information about the assignee/sublessee.

**SECTION 8. TENANT'S RESPONSIBILITIES; PERSONAL PROPERTY:** Tenant agrees to use and occupy the Premises as it is herein given the right to use at its own risk; and that, except for the negligence or willful misconduct of Landlord and/or Landlord's agents, Landlord shall have no responsibility or liability for any loss of or damage to Tenant's leasehold improvements or to fixtures or other personal property of Tenant (collectively, "Tenant's Property") or those claiming by, through or under Tenant. In furtherance of the foregoing, Landlord, any agent of Landlord, and/or any principal of Landlord shall not be liable for any and all damage to Tenant's Property arising from the bursting or leaking of water or sewer pipes, unless arising from the negligence of the Landlord and/or Landlord's agents.

**SECTION 9. COMPLIANCE WITH LAWS; GOVERNMENTAL APPROVALS:** Tenant shall promptly comply with all statutes, ordinances, rules, orders, regulations and requirements of any applicable federal, state and city government and of any and all of their departments and bureaus including any taxing authority or utility; and Tenant shall also promptly comply with all rules, orders and regulations of the applicable fire prevention codes for the prevention of fires, all the foregoing at Tenant's own cost and expense. During the Term of the Lease, if any governmental agency, municipality, utility company or Landlord's insurance company requires changes to the Premises or any of Tenant's property (including, but not limited to, electrical work, plumbing, fire alarm, sprinklers, dumpsters, compactors, waste removal, enclosures, fire panels, back flow preventers and ADA accessibility), Tenant shall make such changes at its sole cost and expense. If any third party, including, but not limited to, utility companies, municipalities and contractors, cause damage to the Premises, Tenant shall be responsible, at its sole cost and expense, for the repair of such damages. **TENANT SHALL BE RESPONSIBLE FOR PROMPTLY OBTAINING ANY PERMIT, LICENSE, SERVICE, ARCHITECTURAL PLANS AND/OR CERTIFICATES OF OCCUPANCY NECESSARY FOR THE CONSTRUCTION AND OPERATIONS OF TENANT'S PROPERTY. LANDLORD MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING TENANT'S PROPOSED USE OF THE PREMISES AND THE GOVERNMENTAL APPROVALS NECESSARY THEREFORE.**

**SECTION 10. DEFAULT:** Tenant shall be in default under this Lease if it fails to: (i) make timely payments of Rent or any other sums due hereunder; or (ii) faithfully observe all terms, covenants, rules and regulations contained in this Lease or such other uniform and non-discriminatory rules or regulations as may be hereafter made and promulgated by Landlord.

In the event of any default by Tenant remaining uncured past any applicable cure period, notwithstanding any waiver of any former breach of covenant or waiver of the benefit hereof or consent in a former instance, Landlord may immediately: (1) apply the Security Deposit, if any, toward the satisfaction and cure of such a default; and/or (2) cure Tenant's default at Tenant's cost and expense; and/or (3) after terminating this Lease, by judicial process, re-enter the Premises and remove all persons and all or any property therefrom, without being liable for any prosecution therefor or

damages therefrom for trespass or otherwise, and repossess and enjoy the Premises, with all additions, alterations and improvements, and Landlord may at its option, repair, alter, remodel and/or change the character of the Premises as it may reasonably deem fit; and/or (4) terminate this Lease upon written notice to Tenant and/or exercise any other remedies otherwise available to Landlord provided herein or at law or in equity. In connection with the foregoing, if Landlord so elects, after securing a judgment, and ninety (90) days prior written notice to Tenant, Landlord may sell any personal property of Tenant at public auction or private sale and apply the net proceeds to the payment of all sums due to Landlord from Tenant, if any, and pay over the balance to Tenant. All rights and remedies available to Landlord shall be cumulative and non-exclusive.

The exercise by Landlord of any right granted in this Section shall not relieve Tenant from the obligation to make all Rent payments, and to fulfill all other covenants required by this Lease, at the time and in the manner provided herein. Tenant throughout the remaining Term hereof shall pay Landlord, no later than the last day of each month during the Term, the then current excess, if any, of the sum of the unpaid rentals and costs to Landlord resulting from such default by Tenant over the proceeds, if any, received by Landlord from such reletting, if any, but Landlord shall have no liability to account to Tenant for any excess. Landlord shall not be required to relet the Premises nor exercise any other right granted to Landlord hereunder, nor shall Landlord be under any obligation to minimize Tenant's loss as a result of Tenant's default, but will nonetheless use commercially reasonable good faith efforts to mitigate damages. If Landlord attempts to relet the Premises, Landlord shall be the sole judge as to whether or not a proposed tenant is suitable and acceptable. After being disposed of or ejected therefrom by process of law or under the terms of this Lease, Tenant hereby waives and surrenders all rights and privileges which it might have under or by reason of any present or future law to redeem the Premises or to have continuance of this Lease for the Term hereby granted.

Tenant covenants and agrees, notwithstanding any termination of this Lease as aforesaid or any entry or re-entry by Landlord, whether by summary proceedings, termination, or otherwise, to pay and be liable for on the days originally fixed herein for the payment thereof, amounts equal to the several installments of Rent and other charges reserved as they would, under the terms of this Lease, become due if this Lease had not been terminated or if Landlord had not entered or re-entered, as aforesaid, and whether the Premises be relet or remain vacant, in whole or in part, or for a period less than the remainder of the Term.

**SECTION 11. ACCELERATION CLAUSE AND DAMAGES:** In addition to all other rights granted to Landlord in this Lease and not as a limitation of said rights, in the event of a default by Tenant, Landlord shall have the right and option to accelerate all Rent due hereunder.

**SECTION 12. COLLECTION AND EXPENSES:** Should either party bring a cause of action against the other party for the alleged breach of any term, clause, covenant, and/or condition under this Lease, the prevailing party shall be entitled to reimbursement of all costs and attorneys' fees and disbursements incurred in connection with any such action. This provision shall apply to all trial and appellate proceedings and any other efforts by either party to enforce its rights and to any bankruptcy, receivership or other insolvency proceeding or negotiation.

**SECTION 13. UTILITIES:** Tenant and Landlord agree that the cost associated with the Tenant's use of the Premises for utilities that is, or may become, due, from the day the Commencement Date until the Expiration Date, including, but not limited to all charges for water, sewer, gas, steam, electricity (or other illumination), telephone and all other utilities and services used or consumed on the Premises, and for all licenses and permits for the same, shall be Tenant's responsibility. Tenant shall either arrange for separate billing with utility providers for Tenant's usage or shall

10

reimburse Landlord for utility charges incurred in connection with Tenant's usage, within 10 business days of presentation of an invoice by Landlord.

**SECTION 14. MAINTENANCE AND REPAIRS:** Tenant shall be responsible for security, trash pickup, lawn and landscaping maintenance on the Premises. The Tenant shall maintain and keep in good order, condition and repair the Premises.

In regards to the general maintenance and occupancy of the Premises, Tenant will at its expense: (a) maintain the Premises in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests; (b) keep any garbage, trash, rubbish and/or other refuse in safe containers that do not encourage the existence of vermin; (c) cause to have such garbage, trash, rubbish and refuse removed on a daily, weekly, or as needed basis to ensure cleanliness; and (d) comply with all laws, ordinances, rules and regulations of governmental authorities regarding the removal of garbage, trash, rubbish and refuse from the Premises.

Landlord is responsible for any intentional or willful act of the Landlord, its agents, servants, employees, or licensees, which damages the Premises, in which case the Landlord shall pay the Tenant the cost of such maintenance and/or repairs, less the amount of any insurance proceeds received by the Tenant on account thereof.

In order to minimize any disruption to the Tenant's use of the Premises, the Landlord shall notify the Tenant in advance of any maintenance and/or repairs, which are the Landlord's responsibility, to be performed in or about the Premises, and/or which will affect the Premises. Upon receiving notice of pending repairs and/or maintenance, the Landlord shall proceed to construct, improve, repair and/or complete any work that is necessary to properly maintain the Premises in accordance with this Lease. The Tenant, at Tenant's sole cost and expense, shall, except for services furnished or otherwise provided by the Landlord, maintain the Premises, and all improvements thereon in a safe, clean, and neat condition, and otherwise in good order and repair. Further, the Tenant shall pay for the cost of any repairs, or replacements to the Premises made necessary by any gross negligence or willful misconduct of the Tenant, or any of its agents, vendors, employees, licensees, or invitees. In the event that the Tenant fails to so maintain the Premises in good order, condition, and repair, the Landlord shall give the Tenant thirty (30) days' notice to do such acts as are reasonably required to properly maintain the Premises. In the event that the Tenant fails to commence such work within the thirty (30) day period, and diligently pursue it to completion, then the Landlord shall have the right, but shall not be required, to do such acts and expend such funds, at the expense of the Tenant, as are reasonably necessary to perform such maintenance, replacement and repairs. Landlord shall have no liability to Tenant for any incidental damage, inconvenience, or interference as a result of performing any such work on or about the Premises.

**SECTION 15. LANDLORD'S ACCESS:** Landlord, or any of its agents, shall have the right to enter the Premises during all reasonable hours, and with forty-eight (48) hours' prior written notice, except in the event of emergency, and without materially interfering with the conduct of Tenant's property, to examine the same to make reasonable inspections, repairs, additions or alterations as may be deemed necessary for the safety, comfort, or preservation thereof, or to exhibit the Premises, and to put thereon a sign "for rent", "for lease" or "available" at any time within four (4) months before the expiration of this Lease. The right of entry shall likewise exist for the purpose of removing placards, signs, fixtures, alterations, or additions, which do not conform to this Lease, or to the rules and regulations of the Premises. Landlord shall make reasonable efforts to minimize disruption of Tenant's business activities.

**SECTION 16. CONDITION OF PREMISES:**

Tenant hereby accepts the Premises in the condition that it is in as of the Commencement Date, in its "AS IS" "WHERE IS" condition without any obligation on the Landlord to perform any work on, or otherwise with respect to, the Premises. Tenant, at its sole costs and expense, shall be responsible for maintaining any and all phone lines and conduit for phone lines on the Premises. Tenant agrees to maintain the Premises in the same condition, order and repair as it was at the Commencement Date, excepting only reasonable wear and tear arising from the use thereof under this Lease, and to make good to Landlord immediately upon demand, any damage to the Premises, caused by any act or neglect of Tenant, or of any person or persons in the employ, under the control of Tenant, or a business invitee of Tenant.

**SECTION 17. TENANT IMPROVEMENTS; INSTALLATION AND REMOVAL BY TENANT:** Tenant agrees that any and all work that may be performed on the Premises by the Tenant, and/or its agent or contractor in the Premises will be performed in a workman like manner under the guidelines of the applicable building codes, and in compliance with all applicable governmental regulations. Tenant shall be responsible for any construction defects in connection with its improvements. Tenant's work shall be performed with minimal interference and disruption to Landlord, and any neighboring property owners.

Tenant shall be responsible for all costs associated with the construction and removal of the following tenant improvements:

1. a trailer
2. canopy
3. storage shed
4. utility connections listed in paragraph 1 above
5. telephone lines (if necessary)
6. Securing all building and zoning approvals

**SECTION 18. HOLD HARMLESS:**

The parties acknowledge that the County enters into this Lease Agreement as Tenant in an effort to provide essential public services, and that Old Cutler Presbyterian Church ("Church") enters into this Lease Agreement as Landlord in a good faith effort to accommodate the provision of those services to the community at large. The parties mutually desire to appropriately protect the Church from liability exposure that could result from its hosting the temporary fire station contemplated for the leased premises. Accordingly, the County as Tenant agrees to indemnify, hold harmless, and defend the Church / Landlord, its employees, agents, contractors, licensees, and invitees from and against any and all claims, actions, damages, liabilities, and expenses, including but not limited to, judgments, settlement payments, fines paid, incurred or suffered by Landlord in connection with any loss of life, personal injury and/or damage to property, arising from, or out of, the occupancy or use by the Tenant of the Premises, up to the limits of the insurance policies required by paragraph 27 below and otherwise subject to the limitations of Florida Statutes, Section 768.28.

**SECTION 19. BANKRUPTCY:** If Tenant shall become a debtor under the bankruptcy code then, to the extent that the bankruptcy code may be applicable or affect the provisions of this Lease, the following provisions shall also be applicable. If the trustee or debtor-in-possession shall fail to elect to assume this Lease within sixty (60) days after the filing of the petition (or such other minimum time as required by any applicable law), this Lease shall, at Landlord's option, be deemed to have been rejected and Landlord shall be thereafter immediately entitled to possession of the Premises and this Lease shall be terminated subject to and in accordance with the provisions of this Lease and of law (including such provisions for damages and acceleration). No election to assume (and, if applicable, to

assign) this Lease by the trustee or debtor-in-possession shall be permitted or effective unless: (i) all defaults of Tenant shall have been cured and Landlord shall have been provided with adequate assurances reasonably satisfactory to Landlord, including (a) any reasonably required guaranties and/or security deposits, and (b) any other reasonably required assurances that there will continue to be sufficient funds and personnel available to professionally promote, staff and operate the Premises in strict compliance with all provisions of this Lease; and (ii) neither such assumption nor the operation of the Premises subsequent thereto shall, in Landlord's judgment, cause or result in any breach or other violation of any provision of this or any applicable lease, mortgage or other contract; and (iii) the assumption and, if applicable, the assignment of this Lease, has been ratified and approved by order of such court or courts as have final jurisdiction over the bankruptcy code and the case. No assignment of this Lease by the trustee or debtor-in-possession shall be permitted or effective unless the proposed assignee likewise shall have satisfied (i), (ii), and (iii) of the preceding sentence and any such assignment, shall, without limitation, be subject to the provisions of this Section. When pursuant to the bankruptcy code the trustee or debtor-in-possession is obligated to pay reasonable use and occupancy charges, such charges shall not be less than the Annual Rent, if any, and other charges specified herein to be payable by Tenant. Neither Tenant's interest or estate in the Premises herein or created hereby, nor any lesser interest or estate of Tenant, shall pass to anyone under any law of any state or jurisdiction without the prior written consent of Landlord. In no event shall this Lease, if the Term hereof has expired or has been terminated in accordance with the provisions of this Lease, be revived, and no stay or other proceedings shall nullify, postpone or otherwise affect the expiration or earlier termination of the Term of this Lease pursuant to the provisions of this Section or prevent Landlord from regaining possession of the Premises thereupon in the event of a bankruptcy. Notwithstanding the foregoing, Landlord may elect to accept Rent from a receiver, trustee, or other judicial officer during the Term of their occupancy in their fiduciary capacity without affecting Landlord's rights as contained in this Lease, but no receiver, trustee or other judicial officer shall ever have any right, title or interest in or to the above described property by virtue of this Lease. Landlord shall also be granted immediate relief from any applicable automatic stay to seek eviction or other remedies or shall likewise be entitled to obtain an order authorizing a rejection of the Lease at Landlord's option which may limit Tenant from maintaining possession of the Premises, notwithstanding the institution of bankruptcy. In the event Landlord is required to exercise any rights under this Section, Tenant agrees to immediately consent to any and all of the relief requested by Landlord.

**SECTION 20. ACCORD AND SATISFACTION:** Unless otherwise agreed to in this Lease, no payment by Tenant, or receipt by Landlord, of a lesser amount than the Rent due hereunder shall be deemed to be other than on account of the earliest stipulated Rent due, or shall any endorsement or statement or any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy provided herein or by law. Any letter accompanying such check that such lesser amount is payment in full shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant, unless the Tenant is authorized to do so in accordance with this Lease.

**SECTION 21. BINDING TERMS:** This Lease shall bind Landlord and Tenant and their respective assigns or successors, heirs, assigns, personal representatives, or successors, as the case may be. The reference in the preceding sentence to the successors and assigns of Tenant is not intended to constitute consent to assignment by Tenant, but has reference only to those instances in which Landlord may later give written consent to a particular assignment.

**SECTION 22. TIME OF ESSENCE:** It is understood and agreed between the parties hereto that time is of the essence of this Lease and this applies to all terms and conditions contained herein.

**SECTION 23. NOTICE:** All notices should be in writing and delivered to the present notice mailing address of each party as listed in the Basic Lease Provisions. Further, for the Tenant, a copy of any such notice shall be sent to the County Attorney's Office, Miami-Dade County, 111 N.W. 1<sup>st</sup> Street, 28<sup>th</sup> Floor, Miami, Florida 33128. With a copy to: Miami-Dade Fire Rescue Department, Planning Section, 9300 N.W. 41 Street, Doral, Florida 33178, Attention: Carlos Heredia. And for the Landlord, a copy of any notice shall be sent to: Mike Campbell, Senior Pastor, Old Cutler Presbyterian Church, Inc., 14401 Old Cutler Road, Palmetto Bay, Florida 33158-1722. It is understood and agreed between the parties hereto that written notice mailed via certified mail, return receipt requested, or sent by overnight courier (such as Federal Express or DHL) and shall be deemed effective upon the date received or refused at the present notice mailing address to which the same were sent. Any such notice, demand, or communication from an attorney acting or purporting to act on behalf of a party shall be deemed to be notice from such party provided that in the case of notice from an attorney such attorney is in fact authorized to act on behalf of such party.

**SECTION 24. NUISANCE; WASTE:** Tenant shall not commit any waste upon the Premises or any nuisance or other act or thing which may disturb the quiet enjoyment of any neighboring property owner or tenant, or which may adversely affect Landlord's fee interest in the Premises or in the Premises. No loudspeakers, stereos, machinery, mechanical apparatus, or other devices shall be used or allowed to operate in a manner so as to be heard or seen outside of the Premises without the prior written consent of Landlord. Tenant shall ensure, at its sole cost and expense, that it operates in a manner such that any odors, smells or noise emanating from its use of the Premises do not impact or affect neighboring property owners or tenants. Remedial measures shall include, without limitation, installing appropriate ventilation systems and/or insulation to mitigate such odors, smells or noise, as the case may be. Tenant covenants and agrees to prevent the Premises from being used in a way which will injure the reputation of the Landlord or of the Premises, or which may be a nuisance, annoyance, inconvenience, or damage to the neighboring property owners, including, without limiting the generality of the foregoing, noise by the playing of any musical instrument, radio or television, or the use of microphone, loudspeaker, electrical equipment, or other equipment outside the Premises or any other noise or odors (e.g. smoking) from the Tenant.

**SECTION 25. RIGHTS OF THE PARTIES:** The rights of the parties under this Lease shall be cumulative, and failure on the part of either party to exercise promptly any rights given hereunder shall not operate as a waiver of any of such party's rights.

**SECTION 26. LANDLORD'S REPRESENTATIONS AND COVENANTS:** The Landlord represents and covenants to the Tenant the following that:

(a) It has full power and authority to enter into this Lease and perform in accordance with its terms, conditions, and provisions and that the person signing this Lease on behalf of Landlord has the authority to bind the Landlord and to enter into this transaction, and the Landlord has taken all requisite action and steps to legally authorize it to execute, deliver and perform pursuant to this Lease.

(b) Landlord is the fee simple owner of the Premises, and Landlord will deliver the leasehold hereunder and exclusive possession of the Premises to the Tenant free and clear of any and all tenancies and occupancies of every nature whatsoever, whether by the Landlord, or otherwise, and subject only to the rights reserved herein to Landlord.

(c) Landlord will keep the Premises free and clear of any and all liens on account of any construction, repair, alternation, improvements, and/or taxes. Landlord shall keep any and all mortgage payments current and in good standing.

(d) Landlord represents and covenants as of the Commencement Date of this Lease, to the best of Landlord's knowledge, the Premises will not be in violation of any federal, state, county, and municipal laws and regulations, including, but not limited to any building code, environmental regulation, or other government ordinance or law. Landlord further represents and covenants that it has not received any notice of any such violation.

#### **SECTION 27. INSURANCE:**

Prior to the Commencement Date, Tenant will provide to Landlord a certificate(s) of insurance evidencing the following minimum insurance coverage by companies with an A.M. Best rating of at least (A-/VI) or equivalent rating by a recognized rating agency:

- (a) Commercial General Liability in the amount of \$1,000,000 each occurrence/ \$3,000,000 aggregate/ \$500,000 damage to rented/leased premises. The Landlord shall be named as an Additional Insured and Certificate Holder. Coverage is limited to the designated premises for the Premises; and
- (b) Vehicle Liability in the amount of \$1,000,000 per occurrence. \$3,000,000 aggregate. Coverage applies to fire rescue vehicles assigned to this station. The Landlord shall be named as a Certificate Holder.

The Tenant warrants that it is and shall remain self-insured for workers compensation in accordance with Florida Statute, Chapter 440 throughout the term of this Lease and any renewal period. Tenant shall maintain the insurance coverage required by this paragraph throughout the term of this Lease and any renewal period. Tenant, agrees to give the Landlord thirty (30) days written notice of any cancellation, non-renewal or material change of any said insurance coverage or workers compensation coverage which shall be grounds for termination of this Lease in Landlord's unilateral discretion.

**SECTION 28. LANDLORD'S WORK ON BEHALF OF TENANT; ADDITIONAL RENT:** It is understood and agreed between the parties hereto that any charges against Tenant by Landlord for services or for work done on the Premises by order of the Tenant or otherwise accruing under this Lease (including for maintenance, repair, and/or replacements) shall be evidenced by a written document signed by both parties and such shall be considered Additional Rent due, and shall be included in any lien for Rent due and unpaid.

**SECTION 29. HAZARDOUS MATERIALS:** Hazardous materials shall not be used, generated, handled, disposed of, discharged or stored on the Premises. The requirements of this Section may be enforced by preliminary and permanent, prohibitory and mandatory injunctions as well as otherwise provided by law or ordinance. Tenant's obligations and liabilities under this Section shall survive the termination of this Lease. Since the Premises is located within the boundaries of Miami-Dade County, Florida, the Director of the Miami-Dade County department entitled Regulatory and Economic Resources may also enforce the requirements of this Section.

**SECTION 30. PARTIES STATUS:** Tenant represents that it is a government entity, a political subdivision of the State of Florida, either at the time of the execution of this Lease or thereafter, and such status as a government entity shall be maintained during the Term of this Lease. In the

event the Tenant fails to maintain its status as a government entity, the Landlord shall have the express authorization, at its sole option, to declare this Lease in default and/or cancel this Lease.

The Landlord represents that it is a non-profit corporation authorized to do business in the State of Florida, and specifically in Miami-Dade County. The Landlord acknowledges and agrees that at all times during the Term of this Lease that it shall maintain its corporate status with authority to do business in Miami-Dade County and in the event the Landlord fails to maintain such status, the Tenant shall have the express authorization, at its sole option, to declare this Lease in default or cancel this Lease.

**SECTION 31. REPRESENTATIONS/WARRANTIES:** Both parties warrant that the individuals executing the Lease on their behalf are duly authorized to execute and deliver the Lease on their behalf in accordance with the organizational documents, and that this Lease is binding upon it in accordance with its terms. Each party further warrants that it has the full legal power and authority to execute and enter into this Lease and to perform all of its obligations hereunder, and the execution and commencement of this Lease, and the performance of its obligations hereunder will not conflict with or result in a breach of, or constitute a default, under any agreement, instrument, judgment, order or decree to which it is a party or to which it may be subject. In the event either party fails to operate in accordance with the aforementioned representations and/or warranties, at any time, without limiting the foregoing, in the event of any such breach of warranty, covenant or representation, the other party may, in addition to any other remedy, terminate this Lease by written notice, and or seek legal action either at law, or in equity.

**SECTION 32. LANDLORD'S DEFAULT:** It shall be an event of default of this Lease by the Landlord if, except as otherwise provided in this Lease, the Landlord fails to observe or perform any of the stipulations, terms, covenants and/or conditions of this Lease to be observed or performed by the Landlord, where such failure shall continue for a period of thirty (30) days after written notice thereof from Tenant to Landlord; provided, however, that the nature of Landlord's non-compliance is such that more than thirty (30) days are reasonably required for its cure, then the Landlord shall not be deemed in default if the Landlord commenced such cure within the thirty (30) day period and thereafter diligently prosecutes such cure to completion. In the event of any such default by Landlord, the Tenant may at any time thereafter do any of the following: bring an action for damages; or for injunctive relief; or Specific Performance; if relating to maintenance and/or repairs, then undertake such maintenance and/or repairs and deduct the amount of such work (including materials and labor) from any Rent due to the Landlord; and/or pursue any other remedy available to the Tenant under this Lease, or at law, or in equity.

**SECTION 33. SUBORDINATION:** Landlord and Tenant hereby agree that this Lease shall be automatically subject and subordinate to any and all mortgages, deeds of trust and other instruments in the nature of a mortgage, now or at any time hereafter, or any other lien or liens placed on the property of which the Premises are a part and Tenant shall, when requested, promptly execute and deliver such written instruments that shall be necessary to show the subordination of this Lease to said mortgages, deeds of trust or such other instruments in the nature of a mortgage. Specifically, if requested by Landlord's lender, Tenant shall execute a subordination, non-disturbance and attornment agreement ("SNDA") on Lender's form within thirty (30) business days of such request, so long as such SNDA is in a form reasonably acceptable to Tenant.

**SECTION 34. FINANCING AGREEMENTS:** Tenant shall not enter into, execute or deliver any financing agreement that can be considered as a priority to any mortgage or deed of trust that Landlord may have placed, or places in the future, upon the Premises.

**SECTION 35. LIENS:** Tenant shall not permit any type of lien to be filed against the Premises for any reason whatsoever. This includes any type of lien for materials, labor, utilities or anything related to the Premises. If, for whatever reason, any mechanic's or other lien shall be filed against the Premises, purporting to be for labor or materials furnished or to be furnished at the request of Tenant, then Tenant shall, at its expense, cause such lien to be discharged of record by payment, bond or otherwise as allowed by law, within fourteen (14) calendar days after the filing thereof. If Tenant shall fail to cause such lien to be discharged of record within such fourteen (14) day period, Landlord, in addition to any other rights and remedies, may, but shall not be obligated to, cause such lien to be discharged by payment, bond or otherwise, without investigation as to the validity thereof or as to any offsets or defenses thereto, and Tenant shall, upon written demand, promptly within ten (10) days, pay to Landlord a sum equal to the amount of such lien(s) and reimburse Landlord for all amounts paid and costs incurred, including reasonable attorneys' fees and interest thereon at the maximum legal rate from the respective dates of Landlord's payment in having such lien discharged of record and, further, Tenant shall otherwise indemnify and save Landlord harmless from any claim or damage resulting therefrom. Tenant shall deliver to Landlord all necessary lien releases and waivers confirming that Tenant has paid its contractors and sub-contractors (collectively "Contractors") in full for any work performed by Contractors for Tenant, and that the Contractors release and waive any possible claims against the Premises associated with their work. Within 5 business days after the Commencement Date, Tenant shall record a formal notice, in a form acceptable to Landlord, in the Public Records denoting this prohibition against any type of lien being placed upon Landlord's property. The obligations in this section shall survive the expiration or early termination of this Lease.

**SECTION 36. CASUALTY (NATURAL DISASTER) AND EMINENT DOMAIN (CONDEMNATION):** If the entire Premises is totally destroyed, as determined by the Tenant, as a result of a casualty, disaster (natural or otherwise) or hazard (a "Casualty Event"), Tenant may, at its sole option, terminate this Lease by giving Landlord thirty (30) days' written notice. If not terminated, Tenant shall have the right to render the Premises tenantable by repairs within ninety (90) days of such Casualty Event. Landlord shall not be liable for any inconvenience or annoyance to Tenant, or for any injury to the business of Tenant, resulting from delays in repairing the damage. If the Premises is not rendered tenantable within said time, either party hereto may cancel this Lease by written notice, effective upon the receipt of such notice.

If this Lease is terminated as provided in this Section, all of Tenant's obligations under this Lease shall cease effective from the date of termination. If this Lease is not terminated, and if Tenant remains open for business in any portion of the Premises after the occurrence of an event that does not totally destroy the Premises, the Tenant shall be obligated to pay the proportionate share of Rent based upon the size of the Premises that is habitable.

In the event the Premises, or a substantial portion thereof, is taken by any condemnation or eminent domain proceeding (a "Taking") whereby the same is rendered untenable, the parties hereto shall have the right to terminate this Lease without further liability on the part of Landlord or Tenant as of the date of the Taking, by providing thirty (30) days written notice from the date of such Taking. If this Lease is not terminated, and if Tenant remains open for business in any portion of the Premises after a Taking, Tenant shall be obligated to pay the proportionate share of Rent. Any award of proceeds resulting from a condemnation or sale in lieu thereof of the whole or part of the Premises will belong solely to Landlord and the Tenant hereby waives any right to make any additional claim against the Landlord.

In connection with any storms, hurricanes, tornados or other natural disasters, Tenant shall immediately repair any structure or improvement that it placed on the Premises. During periods of hurricane or tropical storm watches and/or warnings, Tenant, as it deems appropriate, shall be permitted to install or mount hurricane shutters or other appropriate protection on any structure or improvement on the Premises as it deems necessary at its sole cost and expense.

**SECTION 37. RETURN OF PREMISES:** If the Expiration Date occurs on a weekend day or a federal or county holiday, the Premises shall be returned to the Landlord in accordance with this Section no later than 5:00 p.m. on the business day after such weekend day or federal or county holiday. On or before the specified time, Tenant shall deliver to Landlord the Premises in the condition that the Premises was as of the Commencement Date, (unless the Landlord and Tenant agree otherwise in writing), and in doing so shall remove any and all improvements, including any fixtures connected therewith and all other alterations and additions made to or upon the Premises. In the event of Tenant's failure to remove any of the Tenant's property from the Premises, Landlord is hereby authorized without liability to Tenant for loss or damage thereto, and at the sole risk and cost of Tenant, to remove and store any of the property at Tenant's expense, or to retain same under Landlord's control or after thirty (30) days' notice to Tenant to sell at a public sale, any or all of the property not so removed by Tenant and to apply the net proceeds of such sale to the payment of any sum due hereunder.

**SECTION 38. MODIFICATION, INTEGRATION AND INTERPRETATION:** This Lease memorializes the entire agreement between the parties hereto and all prior negotiations. All negotiations, considerations, representations, and understandings between Landlord and Tenant are incorporated herein and may be modified or altered only by agreement in writing between Landlord and Tenant, and no act or omission of any employee or agent of Landlord shall alter, change, or modify any of the provisions hereof. Tenant specifically acknowledges that it has freely negotiated this Lease and that it has not been influenced to enter into this transaction. Tenant acknowledges that it has not relied upon any warranties or representations not specifically set forth in this Lease. Tenant specifically acknowledges and agrees that the condition of the Premises or any building of which the Premises are a part are not a significant inducement for entering into this Lease. Tenant further acknowledges that Landlord's repair and/or maintenance of the Premises or any building of which the Premises may be part is not a significant inducement for entering into this Lease. In any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of this Lease or any of its terms or conditions, there shall be no inference, presumption, or conclusion drawn whatsoever against either party by virtue of that party having drafted this Lease or any portion thereof.

**SECTION 39. QUIET ENJOYMENT:** Tenant, on paying the rental and performing the conditions hereof, shall and may peaceably and quietly have, hold and enjoy the Premises throughout the term of this Lease.

**SECTION 40. RULES AND REGULATIONS AND TENANT OBLIGATIONS:** Landlord reserves the right to promulgate, and Tenant agrees to comply with reasonable non-discriminatory Rules and Regulations for the Premises, including but not limited to the following:

- a) Tenant shall not conduct any auction, fire, bankruptcy, selling-out, or closing-out sale on or about the Premises.
- b) Tenant shall give Landlord prompt written notice of any accident, fire or damage occurring on or to the Premises and shall immediately process its claim through its insurance carrier, or directly, if self-insured for such matter.

Tenant agrees that Landlord may from time to time to suspend, amend or supplement the foregoing rules and regulations, and to adopt additional reasonable rules and regulations applicable to the Premises, so long as such rules and regulations do not conflict with the terms, covenants, and conditions of this Lease. Notice of changes to any such rules and regulations, including amendments and supplements thereto, if any, shall be given to Tenant in advance of them being implemented.

**SECTION 41. LANDLORD'S RIGHTS:** Landlord shall in no event be in default in the performance of any of Landlord's obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days of written notice from Tenant, or such additional time as is reasonably required to correct any such default after written notice by Tenant properly specifying wherein Landlord has failed to perform such obligation.

**SECTION 42. INDEPENDENT COVENANT:** Each and every Rent obligation Tenant is obligated for under the terms of this Lease shall be deemed to be independent covenants to Landlord and shall remain independent covenants notwithstanding any other obligation Landlord may have to Tenant under the Lease.

**SECTION 43. SIGNAGE/ADVERTISING:** Tenant is financially responsible for installing, maintaining, repairing, and replacing its own signage. Tenant may erect a wall and/or monument sign on the Premises, which sign shall be subject to the prior written review and approval of Landlord, which approval shall not be unreasonably withheld or delayed. Tenant covenants that any and all signs shall be maintained in good condition and repair at all times. The sign criteria for the Premises shall be as follows:

a) All signs must comply with local zoning and building department ordinances, codes and regulations. Landlord reserves the right to review all signs and must provide written approval of all shop drawings prior to submission for permit applications.

b) The following signs are prohibited:

(1) flashing lights or animated signs, (2) audible devices and temperature signs, (3) all Styrofoam, plastic, foam and wood signs, (4) all paper signs and banners of any kind (unless professionally prepared). In the event of any court-ordered "going out of business" sales, signage ordered by the court only can be placed inside the trailer, (5) no flood lights, flags, pennants or signs held by ropes, and (6) no window signage.

All signs are to be constructed at Tenant's sole cost and expense (including all costs associated with the preparation of the monument and/or standard and/or removal of the existing signage and for connecting the electricity to the sign) and installed only with proper permits and approvals by licensed sign and electrical contractors, which signs shall be deemed a fixture to the Premises. If so requested, Tenant shall be responsible for the removal of its signage.

**SECTION 44. PARKING:** The Landlord and Tenant hereby acknowledge and agree that the Premises includes nine (9) parking spaces for the exclusive use of the Tenant, as depicted in Exhibit A. Tenant and its employees shall access the designated parking spaces through the ingress/egress driveway designated on Exhibit A.

**SECTION 45. NON-WAIVER PROVISION:** Any waiver on behalf of any party shall be evidenced in writing. Landlord or Tenant's failure to take advantage of any default hereunder, or breach of any term, covenant, condition, or agreement of this Lease on the part of the Landlord or Tenant to be performed shall not be (or be construed to be) a waiver thereof. Likewise, the parties further agree that any custom or practice that may

grow between the parties in the course of administering this Lease cannot be construed to waive or to lessen the right of the Landlord or Tenant to insist upon the complete performance by the Landlord or the Tenant of any term, covenant, condition, or agreement hereof, or to prevent the exercise any rights given by either of them on account of any such custom or practice. Waiver of a particular default under this Lease, or waiver of any breach of any term, condition, covenant, or agreement of this Lease, or any leniency shown by the Landlord or the Tenant in respect thereto, shall not be construed as, or constitute a waiver of any other or subsequent defaults under this Lease, or a waiver of the right of either party to proceed against the other party for the same or any other subsequent default under, or breach of any other term, covenant, condition, or agreement of this Lease.

No waiver by either party to any breach of any agreement or condition herein contained on the part of the applicable party to be performed or observed, and no waiver of any such agreement or condition, shall be deemed to be a waiver of, or assent, to any succeeding breach of the same of any other agreement or condition; the acceptance by Landlord of Rent or other payment hereunder or silence by Landlord as to any breach shall not be construed as waiving any of Landlord's rights hereunder unless such waiver shall be in writing.

**SECTION 46. TENANT'S TAXES AND ASSESSMENTS:** Tenant agrees to pay to the local taxing authorities and other governmental agencies, throughout the Term of this Lease and any renewal thereof, all personal property taxes which may be levied against Tenant's merchandise, trade fixtures and other personal property in and about the Premises.

**SECTION 47. FORCE MAJEURE:** Neither Landlord nor Tenant shall be liable for failure to perform any obligation under this Lease, in the event it is prevented from so performing by strike, lockout, breakdown, accident, act of God, order or regulation of or by any governmental authority or failure to supply or inability by the exercise of reasonable diligence to obtain supplies, parts or employees necessary to furnish such services or because of war or other emergency or for any other cause beyond its reasonable control.

**SECTION 48. ADA/HANDICAPPED; CODE UPGRADES:** Tenant agrees, at its sole expense, to comply promptly with all current and future requirements, laws, ordinances, regulations or codes of any legally constituted authority that may have authority over the Premises, including any ordinances or requirements for handicapped access to or inside of the Premises as a result of the Tenant's use of the Premises. Tenant shall be responsible for upgrading the Premises for any code upgrades that may be enacted in the future, which are applicable to the Tenant's use of the Premises. With regards to the physical structure of the Premises, Tenant will comply with all requirements to make necessary modifications that are readily achievable within the confines of the Premises.

**SECTION 49. SECURITY:** Tenant acknowledges that Tenant assumes all responsibility and liability for the security for its own employees, agents, visitors, equipment and fixtures on or about the Premises. Tenant, at its option, may enlist its own security personnel and install its own security devices on or about the Premises.

**SECTION 50. EARLY TERMINATION BY TENANT:** Tenant shall have the right to terminate this Lease Agreement, after one year, after thirty (30) days' prior written notice to the Landlord. Upon the expiration or early termination of this Lease, the Tenant shall return the Premises back to the Landlord in accordance with the terms and conditions of this Lease.

**SECTION 51. MANAGING AGENT:** Landlord may act and carry out all of its rights and obligations under this Lease through a managing agent. Such agent will not incur liability for actions taken on behalf of Landlord. The managing agent shall be hired and retained by the Landlord, which the



Landlord may change from time-to-time, or such other agent as Landlord may appoint with or without notice to Tenant. Tenant may rely on the apparent authority of the managing agent.

**SECTION 52. NO OFFER:** THIS LEASE ONLY BECOMES VALID, BINDING AND EFFECTIVE UPON EXECUTION AND COMMENCEMENT OF THIS LEASE BY BOTH LANDLORD AND TENANT. FURTHER, EMPLOYEES OR AGENTS OF LANDLORD HAVE NO AUTHORITY TO MAKE OR AGREE TO MAKE A LEASE OR ANY OTHER AGREEMENT OR UNDERTAKING IN CONNECTION HEREWITH.

**SECTION 53. ESTOPPEL CERTIFICATES:** Tenant agrees, at any time and from time to time, upon not more than thirty (30) days' prior written request by Landlord, to execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same are in full force and effect as modified and stating the modifications), that no uncured defaults exist hereunder (or if any such defaults exist, specifying the same), and the dates to which the rent and other charges due hereunder have been paid in advance, if any, it being intended that any such statement delivered pursuant to this Section may be relied upon by any prospective purchaser or mortgagee of, or assignee of any mortgage upon.

**SECTION 54 - DELIVERIES:** All loading of sizable goods and deliveries of goods shall be done only at such times, in the areas, and through the ingress/egress driveway indicated on Exhibit A, and delivery vehicles shall use the parking designated on Exhibit A. Tenant shall advise its vendors of the delivery requirements set forth in this section. Delivery trailers or trucks shall not be permitted to remain parked overnight in any area of the Premises, whether loaded, unloaded or partially loaded or unloaded. Tenant shall be responsible for any damage to the Premises resulting from deliveries to Tenant according to paragraph 18.

**SECTION 55 MISCELLANEOUS:**

- A. **CAPTIONS AND SECTION NUMBERS:** The captions in this Lease are for convenience of reference only and shall not define, modify, explain, amplify or limit the provisions, interpretation, construction, or meaning hereof.
- B. **CONSTRUCTION OF CERTAIN TERMS:** As used in this Lease, the word "person" shall mean and include where appropriate, any individual, corporation, governmental entity or other entity; the plural shall be substituted for the singular, and the singular for the plural, where appropriate; and words of any gender shall mean and include any other gender.
- C. **EXECUTION:** This Lease shall be fully executed in three (3) complete original instruments, each of which shall be deemed an original of this Lease, and any of which may be introduced into evidence as conclusive evidence of the terms hereof or used for any other purpose without the production of the other instruments.
- D. **LIMITATION OF LIABILITY:** The term "Landlord" as used in this Lease, so far as covenants or obligations to be performed by Landlord are concerned, shall be limited to mean and include only the owner or owners at the time in question of the Premises, and in the event of any transfer or transfers of title to said property, Landlord (and in case of any subsequent transfers or conveyances, the then grantor) shall be concurrently freed and relieved from and after the date of such transfer or conveyance, without any further instrument or agreement, of all liability as respects the performance

of any covenants or obligations on the part of Landlord contained in this Lease thereafter to be performed, it being intended hereby that the covenants and obligations contained in this Lease on the part of Landlord, shall, subject as aforesaid, be binding on Landlord, its successors and assigns, only during and in respect of their respective successive periods of ownership of said leasehold interest or fee, as the case may be. Tenant, its successors and assigns, shall not assert nor seek to enforce any claim for breach of this Lease against any of Landlord's assets other than Landlord's interest in the Premises and in the rents, issues and profits thereof, and Tenant agrees to look solely to such interest for the satisfaction of any liability or claim against Landlord under this Lease, it being specifically agreed that in no event whatsoever shall Landlord (which term shall include, without limitation, the indemnified Parties) ever be personally liable for any such liability.

- E. **RECORDING:** This Lease is not in recordable form, and the parties agree not to record or permit the recording of this Lease, except for filing with the Clerk of the Board of County Commissioners, and/or a similar entity affiliated with the Landlord, although Landlord and Tenant may reasonably agree upon the form of a recordable memorandum of this Lease, to be recorded on an occasion at or near the time of the Commencement Date.
- F. **CONFIDENTIALITY:** The parties hereby acknowledge and agree that the Landlord and/or the Tenant shall be permitted to disclose any information herein or in connection with this Lease and/or the Premises.
- G. **SUCCESSORS AND ASSIGNS:** The covenants and agreements of this Lease shall, subject to the terms of this Lease to the contrary, be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, as the case may be.
- H. **LANDLORD-TENANT RELATIONSHIP:** Landlord and Tenant are not creating a joint venture or partnership by the provisions of the Lease and they are and at all times shall remain in the relationship of Landlord and Tenant.
- I. **PARTIAL INVALIDITY OR UNENFORCEABILITY:** The invalidity of one or more of the provisions of this Lease shall not affect the remaining portions of this Lease; and, if any one or more of the provisions of this Lease should be declared invalid by final order, decree or judgment of a court of competent jurisdiction, this Lease shall be construed as if such invalid provisions had not been included in this Lease.
- J. **BROKERS:** Both parties hereby stipulate, acknowledge and agree that neither of them utilized a broker or an agent in the selection, negotiation, and/or for any other reason involving this Lease, and thereby there are no brokerage commissions due under this Lease, or that shall become due upon the renewal or extension of this Lease.
- K. **GOVERNING LAW:** This Lease shall be governed by and construed and enforced in accordance with the laws of the State of Florida and venue for all actions shall lie in Miami-Dade County, Florida.
- L. **MULTIPLE TENANT SIGNATORIES:** In the event this Lease is executed in an individual capacity by more than one signatory for Tenant and same needs to be modified, canceled, terminated, or otherwise amended, or in the event Landlord requires written authority on behalf of the Tenant for any reason



whatsoever, all parties comprising the Tenant hereby irrevocably acknowledge the grant of formal authority to any and all other parties comprising the Tenant to execute any document, modification, cancellation, termination, amendment to the Lease or other matter requiring a signature of the Tenant, on their behalf, without their signature or any other action by them. Consequently, it shall only be necessary for Landlord to obtain the signature of ONE of the parties comprising the Tenant hereunder in order to bind the Tenant hereunder. Therefore, one signature on behalf of the Tenant shall bind all parties comprising the Tenant hereunder to any document, modification, cancellation, termination, amendment or other matter requiring a signature of the Tenant.

- M. **ENTIRE AGREEMENT:** This Lease, including all exhibits attached hereto, contains the entire agreement of the parties hereto with respect to the matters covered thereby. This Lease cancels, voids and nullifies all prior lease agreements, addendums, written agreements and oral agreements between the parties. This Lease may not be amended, modified or supplemented except by written instrument executed by Landlord and Tenant.
- N. **TELECOPIED AND EMAILED SIGNATURE PAGES:** In order to expedite the transaction contemplated herein, telecopied or emailed signatures may be used temporarily in place of original signatures on this Lease while the original document and signatures are being delivered. The parties intend to be temporarily bound by the signatures on the telecopied document, are aware that the other party will briefly rely on the telecopied or emailed signatures, and hereby waive any defenses to the enforcement of the terms of this Lease, for a short-term period, based on the form of signature.
- O. **CALENDAR DAYS:** Any mention in this Lease of a period of days for performance, unless otherwise described in this Lease, shall mean calendar days.

[REMAINDER OF PAGE WAS LEFT INTENTIONALLY BLANK]  
[ONLY THE SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have hereunto executed this Lease, under seal, for the purpose herein expressed, the day and year above written.

**WITNESSED BY:**

As to Landlord:

D. L. PLH  
Print: DINA L PLUNKET  
P. - -  
Print: Pamela Springe

**LANDLORD:**

OLD CUTLER PRESBYTERIAN CHURCH, INC.  
a Florida non-profit corporation

By: RP Cook  
Name: Richard Cook, Director

**TENANT:**

As to Tenant:

MIAMI-DADE COUNTY, FLORIDA

BY ITS BOARD OF COUNTY COMMISSIONS

Print: \_\_\_\_\_  
\_\_\_\_\_  
Print: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Carlos A. Gimenez  
Title: Mayor

18

**EXHIBIT A**

**PREMISES**

[SEE ATTACHED]

**THE TOWNSHIP OF NEW BRUNSWICK, NEW JERSEY, IS HEREBY CERTIFIED THAT**



78